

# California Real Estate Practice Workbook

Fifth Edition

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CALIFORNIA REAL ESTATE PRACTICE WORKBOOK FIFTH EDITION

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# UNIT 1

## Trust Account Management and Disclosures

### LEARNING OBJECTIVES

*When you have completed this unit, you will be able to*

- › **identify** trust fund concepts and recordkeeping requirements;
- › **summarize** California mandated disclosures;
- › **explain** the need for inspections and obtaining and verifying information; and
- › **describe** reports that are commonly utilized in real estate transactions.

#### I. TRUST FUNDS

##### A. Trust fund concepts

1. Purpose: to keep clients' funds separate from the broker's personal funds
  - a) Trust funds \_\_\_\_\_ belong to the broker.
  - b) For broker-owners of rental property, monies received on the broker-owner's own property are not trust funds and \_\_\_\_\_ be placed in the brokerage trust account.
  - c) Brokers may maintain \_\_\_\_\_ trust fund account for collections from their property management business and deposits on real estate sales transactions.
  - d) \_\_\_\_\_ is the illegal mixing of personal funds with money held in trust on behalf of a client.
    - (1) However, brokers may keep up to \_\_\_\_\_ of their own personal funds in the trust fund account to cover service fees and other bank charges.
    - (2) Commissions, fees, and other income earned by a broker and collectible from trust funds may remain in the trust account for a period not to exceed 25 days.

- (3) Income earned by brokers *must not* be taken from trust funds received *before* depositing such funds into the trust bank account.
  - (4) Under no circumstances may the broker pay personal obligations from the trust fund bank account even if such payments are a draw against commissions or other income. Brokers must issue a trust account check to themselves for the total amount of the income earned, adequately documenting such payment, and then pay personal obligations from the proceeds of that check.
  - (5) Money received by brokers on their own property is received as if they were a principal, not as an agent. As such, these are not trust funds and should not be placed in the trust account.
  - (6) Brokers should not return funds deposited into the trust account to a buyer until he or they are certain that the buyer's check has cleared.
- e) The opposite of commingling is \_\_\_\_\_ funds into separate accounts.
  - f) \_\_\_\_\_ is the unlawful appropriation of another's property by a broker for personal use.
  - g) If a seller does not give a broker authorization to hold deposit money, then the broker accepts the deposit as an agent for the \_\_\_\_\_.

## 2. Trust fund requirements

- a) Brokers' trust fund records must be reconciled \_\_\_\_\_ with the bank statement and a separate beneficiary or transaction record.
- b) The \_\_\_\_\_ at any one time for a trust account with multiple beneficiaries is equal to the total positive balances due to all beneficiaries of the account at the time.
- c) Written consent of every principal who is an owner of the funds in the account must be obtained by a real estate broker prior to each disbursement if such a disbursement will reduce the balance of the funds in the account to an amount less than the existing aggregate trust fund liability of the broker to all owners of the funds.
- d) Property management funds usually involve multiple receipts of funds and several monthly disbursements. It is suggested that separate trust fund accounts be maintained for property management funds and earnest money deposits. However, all trust funds can be placed in the same trust fund account as long as separate records for each trust fund deposit and disbursement are maintained properly and the account is not an interest-bearing account.
- e) Unless given written instructions to the contrary within three days of receipt trust funds are required to either be deposited in a neutral escrow, broker's trust account, or given to the principal.
- f) A broker can place trust funds in an interest bearing account if requested by a principal but cannot receive any interest on the money deposited.
- g) \_\_\_\_\_ is a court proceeding by the holder of deposit money to determine who is legally entitled to the money.
- h) A licensed salesperson who is authorized by the broker or an unlicensed employee who is bonded may be given written permission by the broker to withdraw money from the trust account.

## 3. Advance fees

- a) Advance fees are fees paid to real estate professionals in advance of any services rendered.
- b) Advance fees are required to be deposited into a trust fund account until they are disbursed, typically after services are rendered.
- c) Advance fee agreements are required to be submitted to the CalDRE no less than \_\_\_\_\_ before being used.
- d) Withdrawals of advance fees from a trust account may be made only if the funds are used for the principal's benefit.

**II. RECORDKEEPING****A. Recordkeeping**

- 1. Licensed real estate brokers \_\_\_\_\_ copies of all listings, deposit receipts, canceled checks, trust records, and other documents they execute or obtain in connection with any transaction for which a real estate broker license is required.
- 2. An offer signed by a buyer and rejected by a seller is required to be kept for three years, like a contract.
- 3. Alternatively, brokers may use \_\_\_\_\_ storage technology to store records as long as certain requirements are met.
- 4. Either manually-produced or computerized accounting records are acceptable to track trust funds.
- 5. When the licensee obtains the signature of any person to any contract pertaining to such services or transaction, the licensee must deliver a copy of the agreement to the person signing it at the time the signature is obtained.
- 6. If a buyer delivers deposit money directly to an escrow, a broker who has not been in possession of the deposit is not required to note it in the record of trust funds.

**III. DISCLOSURES****A. Transfer Disclosure Statement (TDS)**

- 1. The transfer disclosure statement is required to be delivered by the seller or agent in property transactions involving \_\_\_\_\_-residential dwelling units.
- 2. Real estate professionals are responsible for delivering it to the buyer as soon as is practical.
- 3. If it is delivered to the buyer after execution of the offer to purchase, the buyer has the right to cancel within \_\_\_\_\_ of delivery.
- 4. Seller disclosure exemptions include the following:
  - a) Sale pursuant to court order (e.g., probate)
  - b) \_\_\_\_\_
  - c) Sale from one co-owner to another
  - d) Transfers to a spouse

5. Even if the form is not required in a particular transaction, the real estate professional still has a legal obligation to make a full disclosure of all facts materially affecting the value and desirability of the residential property.
6. The seller's transfer disclosure statement form includes a provision for the brokers to indicate what the results of their reasonably competent and diligent visual inspection revealed.
7. A licensee should \_\_\_\_\_ fill out the seller's portion of the transfer disclosure statement.
8. The seller is required to deliver a transfer disclosure statement whether or not the seller is represented by an agent.
9. Sellers are required to disclose to the buyer, on the transfer disclosure statement form, any knowledge they possess of the existence of a Mello-Roos lien on the property.

**B. Natural Hazards Disclosure Statement**

1. Special flood hazard areas
2. Very high fire hazard zones
3. Wildland areas that may contain substantial fire risks
4. \_\_\_\_\_ as indicated on maps
5. Seismic hazard zones
6. Sellers, not agents, required to comply with this law

**C. Lead-Based Paint Hazards**

1. Duties apply to sellers or lessors.
  - a) Sellers or lessors of \_\_\_\_\_ must deliver an EPA booklet, *Protect Your Family from Lead in Your Home*, to prospective buyers and lessees.
  - b) The buyer has the opportunity to have the home tested for lead-based paint.

**D. Smoke Detector and Water Heater Bracing Statement of Compliance**

1. Seller typically pays for the installation of smoke detectors, carbon monoxide detectors, and water heater bracing where required by law.
2. Unless exempt, seller, prior to close of escrow provides the buyer with a written statement of compliance.

**E. Disclosure of Ordnance Location**

1. Areas that were once used for military training and which may contain live ammunition, within \_\_\_\_\_ of a residential property that is being sold, requires the seller to give the buyer a written notice as soon as practical before transfer of title.



**F. Disclosure of Material Facts Affecting Property Value**

1. Agents representing a seller of residential property consisting of one- to four-dwelling units and cooperating agents have a duty to conduct a \_\_\_\_\_ inspection of the property offered for sale and to disclose to prospective purchasers all material facts affecting the value and desirability of the property.
2. The extent of a reasonably competent and diligent visual inspection is limited to the accessible areas of the property.
3. If the property is a dwelling unit in a condominium, planned development, or cooperative property the visual inspection only includes the unit involved and not the common areas.
4. The agent's visual inspection and disclosure is required even if the transaction is one that exempts the seller from delivering a transfer disclosure statement to the buyer.
5. Agents are not required to disclose
  - a) deaths that have occurred on a property within three years from date of offer unless buyer asks a direct question, or
  - b) whether a previous occupant has been afflicted with AIDS.

**G. Agency Disclosure**

1. Required in one- to four-unit residential transactions
  - a) \_\_\_\_\_ various agency relationships in statutory agency disclosure form.
  - b) \_\_\_\_\_ who the agent represents in the specific transaction.
  - c) \_\_\_\_\_ the election in purchase contract or separate document.

**H. Reports**

1. A contract may specify if the buyer or seller will request and who will pay for various inspections or reports such as pest control, septic systems, wells and natural hazard zone disclosures.
2. Real estate licensees have a duty to deliver copies of any reports they have in their possession.
3. Pest control reports are filed with the \_\_\_\_\_.
4. When structural pest control reports are a condition of the contract or required by the lender, they are required to be delivered to the \_\_\_\_\_.
5. Pest control reports are filed with the Structural Pest Control Board.
6. Federal rules require creditors to provide to applicants free copies of all appraisals for a federally-backed loan.
7. Disclosure is required if a former military munitions site is located within \_\_\_\_\_ of property being sold or leased.

## UNIT 1 GLOSSARY REVIEW

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>a. 1978</li> <li>b. advance fee</li> <li>c. commingling</li> <li>d. conversion</li> <li>e. foreclosures</li> <li>f. interpleader</li> <li>g. natural hazards disclosure statement</li> <li>h. Structural Pest Control Board</li> <li>i. transfer disclosure statement</li> <li>j. trust fund</li> </ul> | <ul style="list-style-type: none"> <li>1. ____ is a court proceeding by a holder of deposit money to determine who is legally entitled to the money.</li> <li>2. ____ agreements are required to be submitted to CalDRE no less than 10 days before being used.</li> <li>3. ____ Sellers are exempt from providing transfer disclosure statements to buyers on sales including ____.</li> <li>4. ____ Sellers of residential properties built before ____ are required to deliver an EPA booklet, <i>Protect Your Family from Lead in Your Home</i>, to prospective buyers and lessees.</li> <li>5. ____ Pest control reports are filed with the California ____.</li> <li>6. ____ is the unlawful appropriation of another's property for the broker's personal use.</li> <li>7. ____ The illegal mixing of personal funds with money held in trust on behalf of a client is called ____.</li> <li>8. ____ records must be reconciled monthly.</li> <li>9. ____ A ____ must be delivered to a buyer on a sale of residential real property with up to four dwelling units.</li> <li>10. ____ Earthquake fault zones are covered in the ____.</li> </ul> |
|--|--|

# UNIT 1 REVIEW QUIZ

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1. Trust funds
  - A. are always the property of the broker.
  - B. become the property of the seller after the close of escrow.
  - C. are never the property of the broker.
  - D. belong to the buyer unless delivered to the seller.
2. Trust fund records must be reconciled
  - A. daily.
  - B. weekly.
  - C. monthly.
  - D. annually.
3. If a seller does not give a broker authorization to hold deposit money, then the broker accepts the deposit as
  - A. an agent for the buyer.
  - B. an agent for the seller.
  - C. a dual agent.
  - D. a neutral escrow.
4. Advance fees are money paid to real estate licensees
  - A. advances paid on commissions.
  - B. in advance of the licensee performing services.
  - C. as a bonus.
  - D. for performing extra services that don't require a license.
5. Licensees are required to keep copies of documents involving transactions for which a license is required for
  - A. 3 years.
  - B. 4 years.
  - C. 5 years.
  - D. 10 years.
6. Acceptable methods of maintaining accounting records to track trust funds are
  - A. only manually produced records.
  - B. only computerized records.
  - C. either manually produced or computerized records.
  - D. only records on CalDRE approved forms.
7. If a Transfer Disclosure Statement is delivered to the buyer after execution of an offer, the buyer has a right to cancel
  - A. within 10 days after delivery.
  - B. at any time prior to close of escrow.
  - C. only if there is a non-disclosure of a material fact.
  - D. within three days after delivery.
8. The party that typically pays for the installation of smoke detectors and water heater bracing is the
  - A. buyer.
  - B. broker.
  - C. government.
  - D. seller.
9. If a property is a dwelling unit in a condominium, the agent's visual inspection includes
  - A. only the common areas.
  - B. both the unit involved and the common areas.
  - C. only the unit involved and not common areas.
  - D. neither the unit involved nor the common areas.
10. A real estate licensee has a duty to deliver copies of any structural pest control reports
  - A. that exist.
  - B. she has in her possession.
  - C. that are on file with the Structural Pest Control Board.
  - D. that she personally ordered.



# UNIT 2

## Fair Housing and Advertising

### LEARNING OBJECTIVES

*When you have completed this unit, you will be able to*

- › **recognize** the protected classes and prohibited activities under fair housing laws;
- › **explain** the need for servicing diverse populations;
- › **describe** advertising laws and guidelines; and
- › **identify** the technological tools that help agents to be more efficient and effective.

#### I. FAIR HOUSING

##### A. Fair housing laws

1. In 1968, in the case of \_\_\_\_\_, the U.S. Supreme Court held that the Civil Rights Act of 1866 applied to private properties, and barred racial discrimination. There are **no exceptions** involving race under the 1866 Civil Rights Act.
2. The Civil Rights Act of 1968 prohibited discrimination in housing based on certain protected classes, including the following:
  - a) \_\_\_\_\_
  - b) Race
  - c) Religion
  - d) Color
  - e) Sex

3. The purpose of federal fair housing law is to provide all persons in the United States with fair housing opportunities.
  - a) The Civil Rights Act of 1968 and the Fair Housing Amendments Act of 1988 are enforced by the Department of Housing and Urban Development \_\_\_\_\_.
4. The Fair Housing Amendments Act of 1988 added additional protected groups.
  - a) It prohibited discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, source of income, disability, or familial status, including \_\_\_\_\_.
  - b) Prohibited discrimination against handicapped persons, including persons afflicted with \_\_\_\_\_.
  - c) A violation of federal fair housing law is considered unlawful, illegal, and against public policy.
  - d) Statutory exemptions to the Fair Housing Act include the following:
    - (1) Religious property—that provides housing incidental to the purpose of the facility, such as a \_\_\_\_\_, the organization is allowed to discriminate on the basis of religion.
    - (2) Private clubs—can provide housing limited to their members but cannot limit membership for other reasons (such as race, color, or national origin).
    - (3) Single-family residence—an owner may sell or rent without complying with the Fair Housing Act provided that the owner does not have an interest in more than three single-family residences at one time, and the exception only applies once in every two year period. The owner cannot engage in discriminatory advertising and cannot use the services of a real estate licensee.
    - (4) Owner-occupied property involving two but not more than four units are exempt from the Fair Housing Act. Real estate licensees must still comply.
    - (5) Housing for the elderly is exempt for persons 55 and older where the intention is to provide housing for older persons and 80% of the units are occupied by at least one person who is 55 years of age or older.
5. The Americans with Disabilities Act applies to \_\_\_\_\_, defined as a commercial facility open to the public, and requires such buildings to be \_\_\_\_\_.
6. The \_\_\_\_\_ is a California law that prohibits discrimination in the sale, rental, lease, or financing of housing.
  - a) Responding to a question by a seller as to the race of a buyer would be a violation of the law.
  - b) Violations of the Rumford Act are reported to the Department of Fair Employment and Housing.
7. The Unruh Civil Rights Act provides for equal accommodations and services in all \_\_\_\_\_ in California regardless of age, sex, race, color, religion, ancestry, national origin, or disability. (For all protected classes under Unruh, see [www.dfeh.ca.gov/Publications\\_Unruh.htm](http://www.dfeh.ca.gov/Publications_Unruh.htm)).
  - a) For a violation of the Unruh Act the penalty can be a court award of a maximum of three times actual damages, but not less than \$4,000, and if a real estate licensee, potential revocation of license by CalDRE.

- b) The Unruh Act defines a senior citizen as a person 62 years or older or one who is 55 years or older in a senior citizen housing development, which is specifically designed to meet the physical and social needs of senior citizens.
- 8. The Housing Financial Discrimination Act of 1977 (known as the Holden Act), which is part of the Health and Safety Code, prohibits discriminatory loan practices on the part of financial institutions.
  - a) Discriminating on the basis of racial characteristics or trends in a geographic area is referred to as \_\_\_\_\_ and is illegal unless the particular case is necessary to avoid an unsafe and unsound business practice.
  - b) This law applies to loans to purchase one-to-four unit owner-occupied residences and rehabilitation loans on one-to-four units that are non-owner-occupied.
  - c) The law is administered by the California Department of Business Oversight.
- 9. The Fair Employment and Housing Act (Government Code) can require a \_\_\_\_\_ to sell the home, if it is still available, or to sell or rent a like housing accommodation, if one is available.
  - a) Punitive damages of up to \$10,000 may be awarded, as well as actual damages.
- 10. The 1948 U.S. Supreme Court decision in the case of *Shelley v. Kraemer* held that deed restrictions based on race were unenforceable and in violation of the 14th Amendment to the Constitution.
- 11. The Equal Credit Opportunity Act (ECOA) prohibits discrimination based on an applicant's income coming from public assistance.

## B. Prohibited acts under fair housing laws

- 1. \_\_\_\_\_ (also called blockbusting) is the illegal practice of real estate professionals inducing the listing and selling of homes on the grounds of the prospective entry into a neighborhood of persons of another race, color, religion, et cetera.
- 2. \_\_\_\_\_ is the illegal practice of real estate professionals directing members of protected classes into or away from certain neighborhoods.

## II. SERVICING DIVERSE POPULATIONS

### A. Growing diversity in California

- 1. With the growing diversity of the California population, real estate licensees are increasingly called upon to make their services more widely available to diverse populations.
- 2. According to U.S. Census data, various populations of residents are increasing.
  - a) According to the 2014 census, the population of Californians over the age of 65 \_\_\_\_\_ 14.8% of the total population.
  - b) The Asian population of California in 2014 was 14.4% and in 2020 increased to 15.5%.
  - c) The Hispanic population in California in 2014 was 38.6% and in 2020 increased to 39.4%.

- d) The proportion of the California population in which a language other than English is spoken at home increased to 44.2%.
- e) Half of the nation's foreign-born population lived in four states:  
\_\_\_\_\_.

**B. Diversity includes**

- Age
- Disability
- Ethnicity
- National origin
- Family status
- Mental illness
- Criminal background
- Gender
- Gender identity
- Language
- Lifestyle
- Race
- Religion
- Sexual orientation

**C. The role of the real estate licensee in servicing diverse populations**

1. Real estate is a local commodity; however, not all buyers and sellers are local.
2. Immigrants, foreign purchasers, and U.S. citizens with families who live in other countries have represented a growing market for California real estate licensees.
3. According to the National Association of REALTORS®, annual foreign investment in the United States of residential properties fell 27% to \$54.4 billion, the lowest level in a decade.

**D. Examples of how real estate licensees can service diverse clients**

1. Serving different cultures
  - a) Awareness of cultural values, such as reliance on family support systems, collective decision making, spirituality, and respect for parents is important in real estate licensees serving diverse populations.



- b) Be mindful of topics that may elicit highly sensitive reactions.
- c) Ensure that the real estate office environment, including artwork, is respectful of \_\_\_\_\_.
- d) Identify community characteristics and needs.
- e) Visit local community centers such as ethnic grocery stores, schools that teach in native languages other than English, and sports groups for the populations that the real estate licensee wishes to reach.
- f) Offer services to speak to local groups in a variety of settings. Where language could be a barrier, real estate licensees might ask community members to serve as translators when giving presentations. This kind of a gesture can help to strengthen relationships within a target community.

## 2. Helping ex-prisoners find housing

- a) Very few newly-released prisoners have a home waiting for them.
- b) A safe place to live is essential to a successful reentry.
- c) Real estate licensees can help ex-prisoners by providing the following housing assistance:
  - (1) Interview the newly released prisoners to assess their housing needs and requirements.
  - (2) Provide accurate information about housing resources available in the specific market area.

## 3. Survivors of domestic violence often face housing discrimination because of their history or the acts of their abusers.

- a) According to the U.S. Bureau of Justice Statistics, 85% of victims of domestic violence are women<sup>1</sup>.
- b) The Violence Against Women Act expired on December 21, 2018. On March 17, 2021, the U.S. House of Representatives passed the Violence Against Women Reauthorization Act of 2021.
- c) Examples of fair housing cases involving domestic violence
  - (1) A victim was assaulted by her husband in their apartment. She obtained a restraining order against her husband, and he was subsequently arrested and jailed for the assault. She provided a copy of the restraining order to the property manager. The property manager then served her with a 24-hour eviction notice based on the incident of domestic violence.
  - (2) A victim of domestic violence obtained a restraining order against her abusive ex-boyfriend. Months later, the ex-boyfriend attempted to break into the apartment, breaking the windows and front door. The owner of the apartment evicted the victim and her children based on the property damage caused by the ex-boyfriend.
  - (3) A victim's ex-boyfriend continued to harass, stalk, and threaten her after she ended their relationship. He came to her apartment in the middle of the night, banging on the door and yelling. The building security guard was unable to reason with him. He left before the police arrived. One week later, the abuser came back to the building, confronted the same security guard, and shot him. The victim was served an eviction notice from the landlord based on this incident.

<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. (2003). Crime Data Brief, *Intimate Partner Violence, 1993-2001*.

### III. TRUTH IN ADVERTISING

#### A. Requirements under TILA, RESPA, and TRID

1. The TILA-RESPA Integrated Disclosure (TRID) rule consolidates four existing disclosures into two forms:
  - a) \_\_\_\_\_ form must be delivered or placed in the mail no later than the third business day after receiving the consumer's loan application.
  - b) \_\_\_\_\_ must be provided to the consumer at least three business days prior to consummation of the transaction. If the creditor provides a corrected disclosure, it may be required to provide the consumer with an additional three-business day waiting period.
  - c) The rule applies to most closed-end credit transactions secured by real property, but does not apply to
    - (1) Home Equity Line of Credit loans,
    - (2) reverse mortgages, or
    - (3) loans secured by a mobile home or a dwelling that is not attached to real property.
2. \_\_\_\_\_ is a federal offense under the Truth in Lending Act (TILA).
  - a) Bait and switch advertising happens when a company has no intention of selling the item they're advertising but uses it to grab the attention of consumers and then tries to sell them something else, usually at a higher price.
3. Referral fees—RESPA provides that escrow companies and other settlement service providers must not give, and no person can accept, any fee, kickback, or referral fee as a part of a real estate settlement service involving a federally-related mortgage loan.
4. Under the federal Truth in Lending Act, if only the annual percentage rate (APR) is included in the ad, then no further disclosures are required in the ad.
5. \_\_\_\_\_, business, and construction loans are exempt from the Truth in Lending Act requirements.

#### B. Requirements for mobile home ads

1. Mobile home ads should not state that the mobile home can be transported on California highways if it does not have the appropriate equipment to do so.
2. Mobile home ads must be removed within \_\_\_\_\_ of the home no longer being available for sale.
3. Real estate licensees cannot advertise that no down payment is required on a mobile home if a down payment is required or if the buyer finances the down payment.
4. Real estate licensees cannot advertise or represent that a used mobile home is new.

**C. Blind ads**

1. Blind ads are advertisements that \_\_\_\_\_ that the person or entity placing the ad is a real estate licensee.
2. Real estate professionals should disclose the name of their brokerage, the word *broker* or *agent*, or an understandable abbreviation (e.g., Agt. or Bkr.) to avoid blind ads.
3. Real estate professionals advertising their lending services should state, “A Real Estate Broker-CA Department of Real Estate.”
  - a) The SAFE Act mandates that real estate professionals involved with the selling or making of loans need to be registered as mortgage loan originators.

**D. HUD guidelines for acceptable terminology in advertisements**

1. The phrase “female roommate wanted” is acceptable even if the advertisement does not indicate whether the requirements for the shared living exception have been met. If the housing being advertised is a separate dwelling unit without shared living spaces, an ad for a female roommate could result in liability.
2. Use of words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms (e.g., white family home, no Irish) will create liability.
3. Advertisements that are neutral (e.g., desirable neighborhood) will not create liability.
4. Advertisements containing descriptions of properties that do not state a preference for persons likely to make use of those facilities are not violations of the law (e.g., \_\_\_\_\_ or kosher meals available).
5. Advertisements should not contain an explicit preference, limitation, or discrimination on account of religion (e.g., no Jews, Christian home) and cannot contain a religious reference or symbol, such as a cross, which may indicate a religious preference and violate the law.
6. The use of secularized terms or symbols relating to religious holidays such as Santa Claus, the Easter bunny, or St. Valentine’s Day, or phrases such as “Merry Christmas,” does not constitute a violation of the law.
7. Terms such as *mother-in-law suite* and *bachelor apartment* are commonly used as physical descriptions of housing units and do not violate the law.
8. Real estate advertisements should not contain explicit exclusions, limitations, or other indications of discrimination based on handicap (e.g., no wheelchairs). However, advertisements containing \_\_\_\_\_ (e.g., jogging trails, within walking distance of a bus stop) do not violate the law.
9. Advertisements describing the conduct required of residents (e.g., non-smoking or sober living) do not violate the law.
10. Advertisements may not state an explicit preference on the number of or ages of children or state a preference for adults, couples, or singles.
11. Advertisements describing the property (e.g., two bedroom, cozy, family room) are not discriminatory on the surface and do not violate the law.

**E. CAN-SPAM**

1. CAN-SPAM is a federal law that stands for Controlling the Assault of Non-Solicited Pornography and Marketing. It is intended to protect consumers \_\_\_\_\_ by requiring
  - a) opt-out provisions where the recipient can indicate that no additional emails are sent to them,
  - b) the email has a functioning return email address and a legitimate physical address of the maker, and
  - c) the subject line indicates that it is an advertisement.
2. Violations of the law can result in fines of more than \$46,517 per message that is a violation.

**F. National Do Not Call Registry**

1. The Federal Communications Commission established a National Do Not Call Registry to protect consumers from unwanted commercial solicitations.
2. Individuals can register landline telephone numbers.
3. In addition to the national maintained registry, individual companies may maintain their own \_\_\_\_\_ do-not-call list.
4. Penalties can be up to \$43,792 for each unsolicited call.
5. Exceptions for when unsolicited calls can be made are as follows:
  - a) Existing business relationships (within 18 months)
  - b) If call is made within \_\_\_\_\_ of an inquiry
  - c) Where you have written permission to call
  - d) Commercial numbers
  - e) Calls can be made to conduct surveys, but no solicitation can be included in the call

**IV. TECHNOLOGY****A. Choosing a computer**

1. Real estate professionals do not need high powered computers because most of their technology needs are done through outside programs, such as the MLS.
2. Access to the multiple listing service is one of the major reasons why real estate professionals need to have a computer.
3. The operating system you select just needs to support the software that you want to use.
4. Consider mobility when choosing a computer.
  - a) Have at least one computer that is \_\_\_\_\_.

5. Have multiple computers that can access the same information.
6. Real estate professionals who want to develop expertise in technology can get advanced certification as an \_\_\_\_\_ from the National Association of REALTORS® (NAR).

### B. Technology trends

1. The *cloud* refers to storing data on a provider's server or servers as opposed to on an individual's computer. It is an alternative to storage on a computer's hard drive.
2. *Instagram* is a website where a person can post photos on the internet to share with others.
3. *Electronic signatures and document preparation* is now prevalent in real estate contracts, loan applications, and other real estate-related documents.
4. *Surveillance*—real estate licensees (or homeowners) holding open houses can now use a webcam to record the interaction.
5. *Virtual Reality* video may potentially replace showings enabling people to “visit” properties from a distance.
6. *Consumer relationship management* (CRM) software is designed to help sales professionals find and then support their clients.
7. A \_\_\_\_\_ provides 360° photos so that a viewer can move from room to room while viewing a property on a computer.

**UNIT 2 GLOSSARY REVIEW**

- |  |  |
|--|--|
| <ul style="list-style-type: none"><li>a. AIDS</li><li>b. blind ads</li><li>c. CAN-SPAM</li><li>d. do-not-call</li><li>e. e-Pro®</li><li>f. decreasing</li><li>g. inquiry</li><li>h. Loan Estimate</li><li>i. steering</li><li>j. telephone solicitations</li></ul> | <ul style="list-style-type: none"><li>1. ____ The fine for violating _____ rules can be up to \$40,000.</li><li>2. ____ The National Do Not Call Registry exists to protect consumers from unwanted commercial _____.</li><li>3. ____ Prohibited discrimination against handicapped persons includes those afflicted with _____.</li><li>4. ____ The illegal practice of real estate licensees directing members of a protected class towards or away from certain neighborhoods is called _____.</li><li>5. ____ The _____ Act protects consumers from unsolicited email messages.</li><li>6. ____ The percentage of foreign buyers purchasing property in the United States has been _____.</li><li>7. ____ The _____ required under TRID must be delivered or placed in the mail no later than the third business day after receipt of the loan application.</li><li>8. ____ _____ are advertisements that do not disclose that the person or entity placing the ad is a real estate licensee.</li><li>9. ____ A professional certification that indicates that a real estate professional has advanced training in technology is _____.</li><li>10. ____ An exception, which allows a person to call someone on the National Do Not Call Registry, is when an _____ has been made within three months.</li></ul> |
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## UNIT 2 REVIEW QUIZ

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1. Real estate professionals are not allowed to call consumers on the do-not-call list. However, an exception is for calls that are
  - A. made to a consumer who has had contact with the real estate professional within the last 90 days.
  - B. made to a consumer who has had negotiations with the real estate professional within the last 18 months.
  - C. made to a consumer that the real estate professional would like to do business with.
  - D. personal and have nothing to do with the solicitation of a client.
2. Unsolicited email is federally controlled, so to be legal it must
  - A. contain an option for a recipient to opt out of receiving the solicitations.
  - B. be a one-time mailing and not a constant bombardment to the recipient.
  - C. only be sent to recipients that have previously agreed to receive marketing emails from the sender.
  - D. only be sent to a recipient list that has been bought from a company that specializes in selling lists.
3. Which is *TRUE* of the CAN-SPAM Act of 2003?
  - A. It forbids the sending of unsolicited bulk emails.
  - B. It allows the sending of bulk emails only if the recipients are all showing as a carbon copy (cc) to the email.
  - C. It allows bulk emails only if the recipient has previously signed up for them.
  - D. None of these are true.
4. The 1968 court case where the U.S. Supreme Court held that the Civil Rights Act of 1866 applied to private properties barring racial discrimination is
  - A. *Easton v. Strassburger*.
  - B. *Love v. Love*.
  - C. *Shelley v. Kraemer*.
  - D. *Jones v. Mayer*.
5. The Civil Rights Act of 1968 is enforced by
  - A. the EPA.
  - B. the FBI.
  - C. HUD.
  - D. NAR.
6. One of the major reasons for having a computer is to
  - A. look credible to clients.
  - B. use search engines.
  - C. contact friends through Twitter and Facebook.
  - D. access the multiple listing service.
7. Software that helps real estate professionals find and support clients is called
  - A. find and support software (FSS).
  - B. sales management software (SMS).
  - C. consumer relationship management software (CRM).
  - D. tracking and supporting software (TSS).
8. The document that must be provided to the consumer, according to TRID, at least three business days prior to consummation of a real estate transaction is called
  - A. Loan Estimate.
  - B. Final Escrow Instructions.
  - C. Truth-in-Lending Form.
  - D. Closing Disclosure.
9. For consumers who are not on the national do-not-call list, they can request
  - A. to be put on a company's internal do-not-call list.
  - B. that the FTC investigate their complaint against a company.
  - C. that a solicitor call them back later.
  - D. to be put on the national do-not-call list by a solicitor who calls them.
10. Real estate licensees cannot advertise or represent that a used mobile home is
  - A. a good deal.
  - B. new.
  - C. used.
  - D. capable of being transported on California highways.





# UNIT 3

## Agency Supervision and CalDRE Jurisdiction and Disciplinary Actions

### LEARNING OBJECTIVES

*When you have completed this unit, you will be able to*

- › **describe** the primary responsibilities brokers have to supervise their associate licensees;
- › **define** the permitted activities of unlicensed sales assistants;
- › **describe** the general ethical responsibilities of real estate licensees;
- › **identify** jurisdiction of the CalDRE and disciplinary actions that can be taken against licensees; and
- › **explain** the California Real Estate Recovery Fund provisions and how they are available to the public.

#### I. AGENCY SUPERVISION

##### A. Commissioner's Regulation 2725

1. The broker's duty to supervise salespeople is based on Commissioner's Regulation 2725.

- a) Regulation 2725—A broker is required to exercise \_\_\_\_\_ over the activities of salespersons (including associate broker licensees).
- b) Reasonable supervision includes
  - (1) establishing policies, rules, procedures and systems to review, oversee, inspect, and manage transactions and documents that have a material effect upon the rights or obligations of a party to a transaction;
  - (2) filing, storing, and maintaining of documents;
  - (3) handling of trust funds;

- (4) advertising services for which a license is required; and
- (5) familiarizing salespersons with the requirements of federal and state laws relating to discrimination.

### **B. Broker Delegation of Responsibility to Supervise**

1. Before July 1, 2012, brokers routinely \_\_\_\_\_ branch and division managers to supervise the activities of salespersons. However, only the broker of record of the real estate company was liable for the actions of the salespersons, not the branch or division manager.
2. If the provisions of the new law are followed, both the broker of record and the responsible branch or division manager will be liable to CalDRE for the actions of the salespersons.
3. This liability extends up to and includes temporary suspension or permanent revocation of the license of the branch/division manager.
4. To make the appointment of a branch manager subject to the law, the appointment must be
  - a) in writing,
  - b) with the agreement of the branch manager to accept the delegated responsibility in a written contract, and
  - c) submitted to CalDRE on an approved form RE 242.
5. To be qualified to be appointed under the new law, the branch manager
  - a) must not hold a restricted license,
  - b) must not be subject to an order of debarment, or
  - c) cannot be a salesperson licensee with less than two years of full-time real estate experience within the five years preceding the appointment.

### **C. Examples of Reasonable Supervision**

1. A broker is required to notify the commissioner not more than \_\_\_\_\_ following the termination of employment of a licensee.
2. Record Retention
  - a) \_\_\_\_\_ and electronic contracts with electronic signatures must be maintained by the broker as part of the transaction file, just like their previous paper counterparts. Texts and tweets are not required to be retained, as they are short-lived.
  - b) All documents executed or obtained by a real estate broker in connection with any transactions for which a real estate broker license is required are required to be retained for \_\_\_\_\_ from the date of closing or from the date of listing if the transaction is not consummated.
3. Responsibilities regarding teams
  - a) The law provides that a team name is not a fictitious business name. A team name means a professional identity or brand name used by a salesperson, and one or more other real estate licensees, for providing real estate services.

- b) The team name must include the surname of at least one of the licensee members of the team in conjunction with the term *associates, group, or team*.
  - c) The use of a team name does not require that a separate license be issued for that name.
  - d) The name cannot include any term or terms, such as *real estate broker, real estate brokerage, broker, or brokerage* or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services, that imply or suggest the existence of a real estate entity independent of a responsible Broker of Record of a company.
  - e) The responsible broker's identity is required to be displayed as \_\_\_\_\_ as the team name in all advertising and solicitation materials.
  - f) Nothing in this law changes real estate brokers' duties to supervise their salespeople.
4. Use of Fictitious Business Names (DBA) by salespeople
- a) A responsible broker may, by contract, permit a salesperson to file an application with a county clerk to obtain a DBA.
  - b) The broker must deliver to the Department of Real Estate an application form RE 247, "Add/Cancel Salesperson Owned Fictitious Business Name" form signed by the responsible broker, requesting approval to use a county-approved DBA that is identified with the responsible broker's license number.
  - c) All advertising and solicitation materials, including business cards, print or electronic media, and for sale signage using a salesperson's DBA must include the responsible broker's identity in a manner equally as prominent as the fictitious business name.
  - d) All of the above must also include the name and license number of the salesperson who is using the DBA.
5. Disclosure of Licensed Status on Solicitation Materials
- a) Regulation 2773 requires real estate brokers and salespeople, when they engage in acts for which a license is required, to disclose their eight-digit real estate license identification number on all solicitation materials intended to be the first point of contact with consumers.
  - b) If the name of more than one licensee appears in the solicitation, the license ID number of each licensee must be disclosed.
6. The type size of the license ID number can be no smaller than the smallest type size used in the solicitation material.
7. Solicitation materials intended to be the first point of contact with consumers must include the following:
- a) \_\_\_\_\_
  - b) Stationery
  - c) Flyers, television ads, print ads, electronic media ads, brochures, leaflets, and mail (regular and email)

8. Solicitation materials do not include the following:

- a) For sale, rent, lease, open house, and directional signs that display the responsible broker's identity and do not identify or reference an associate broker or licensee. These exceptions do not apply if using a team name or salesperson-owned dba.

## II. PERMITTED ACTIVITIES OF UNLICENSED SALES ASSOCIATES

### A. CalDRE guidelines for unlicensed sales associates

1. It is important for the broker to know and identify those activities which do and do not require a real estate license.
2. Broker knowledge and consent is a prerequisite to the performance of the following unlicensed activities:
  - a) \_\_\_\_\_
    - (1) Making telephone calls to identify interest in using the services of a real estate broker is permitted for unlicensed assistants.
    - (2) If a person who answers such a call indicates an interest in using the services of a broker, or if there is an interest in ascertaining the kind of services a broker can provide, the person must be referred to a licensee.
    - (3) At no time can the unlicensed assistant attempt to induce the person to use a broker's services, and the call may not be designed for solicitation purposes with respect to a specific property, transaction, or product.
  - b) \_\_\_\_\_
    - (1) With the principal's consent, an unlicensed assistant can
      - place signs,
      - greet the public,
      - provide factual information or hand out preprinted materials prepared by or reviewed and approved for use by the licensee,
      - arrange appointments with the licensee.
    - (2) Only a licensee may engage in the following activities:
      - Show or exhibit the property
      - Discuss terms and conditions of a possible sale
      - Discuss features of the property, such as its location, neighborhood, or schools
      - Any other conduct which is designed for solicitation purposes with respect to the property

- c) \_\_\_\_\_
- (1) Unlicensed assistants may prepare a comparative market analysis subject to the approval of and for use by the licensee.
- d) \_\_\_\_\_
- (1) With the principal's consent, unlicensed assistants may let a person into the property who is either to inspect a portion or all of the property for the purpose of preparing a report or issuing a clearance, or who is to perform repair work to the property, in connection with a transaction.
- (2) \_\_\_\_\_ which is needed by the person making the inspection must be provided by the broker or associate licensee, unless it comes from a data sheet prepared by the licensee or principal, and that fact is made clear to the person requesting the information.
- (3) Unlicensed assistants can communicate with a party to a transaction about when reports or other information will be delivered, or when certain services will be performed.
- e) \_\_\_\_\_
- (1) An unlicensed assistant may prepare advertising relating to the transaction for which the licensee was employed, if the advertising is \_\_\_\_\_ by the licensee prior to its publication.
- f) \_\_\_\_\_
- (1) Unlicensed assistants may prepare and complete documents under the supervision and direction of the licensee if the final documents will be reviewed or approved by the licensee prior to being presented to a party to the transaction.
- (2) An unlicensed assistant must not discuss the content, relevance, importance or significance of a document with a party to the transaction.
- (3) An unlicensed assistant may review transaction documentation for completeness or compliance, providing the final determination as to completeness or compliance is made by the licensee.

### III. GENERAL ETHICS

#### A. Real estate profession codes of ethics

1. CalDRE \_\_\_\_\_ enforce ethics rules.
2. Various professional real estate associations have Codes of Ethics which are duties of membership in the private association, including the following:
  - a) National Association of REALTORS® (NAR)
  - b) National Association of Real Estate Brokers (NAREB)—an organization of predominantly African-American real estate licensees
  - c) National Association of Hispanic Real Estate Professionals (NAHREP)
  - d) Asian Real Estate Association of America (AREAA)

3. The Code of Ethics and Standards of Practice of the National Association of REALTORS® is the most widely recognized and adhered to real estate code of ethics.

### **B. Specific provisions of the NAR code of ethics**

1. In 2013, the NAR modified its code of ethics to include protection from \_\_\_\_\_ for individuals based on gender identity.
2. Under the NAR Code of Ethics REALTORS® must not undertake to provide \_\_\_\_\_ concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client.
  - a) They are also required to identify anyone who provides such assistance and what their contribution to the assignment consisted of.
3. REALTORS® should not engage in activities that constitute the \_\_\_\_\_ and are required to recommend that legal counsel be obtained when the interest of any party to the transaction requires it.
4. It is considered unethical, under NAR's Code of Ethics for a REALTOR® to knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices.

## **IV. CALDRE JURISDICTION AND DISCIPLINARY ACTIONS**

### **A. CalDRE jurisdiction**

1. The CalDRE was established in 1917 with the formation of the first real estate licensing law in the United States, which was upheld and became effective in 1919.
2. The \_\_\_\_\_ appoints the real estate commissioner.
3. The real estate commissioner is authorized to issue and revoke licenses and \_\_\_\_\_ for the enforcement of real estate laws.
4. The Department of Real Estate \_\_\_\_\_ real estate licensees, not unlicensed persons.
5. The real estate commissioner \_\_\_\_\_ collect penalties for victims of licensees.
6. Upon a court discovering fraud against a real estate licensee, the real estate commissioner must first hold a \_\_\_\_\_ before suspending or revoking a license.
7. The California attorney general acts as the CalDRE's \_\_\_\_\_.
8. The local district attorney acts as the \_\_\_\_\_ for real estate law violations.
9. The CalDRE may take disciplinary action against a licensee if the licensee has been guilty of making any \_\_\_\_\_, whether a member of the public is injured or not.
10. Only the real estate commissioner, \_\_\_\_\_ the courts, has the ability to suspend or revoke a real estate license.

**B. Reorganization**

1. As of July 1, 2018, the Bureau of Real Estate (CalBRE) returned to being the Department of Real Estate (DRE).
2. It falls under the administrative and fiscal umbrella of the Business, Consumer Services, and Housing Agency.

**C. Employment contracts**

1. Every real estate broker is required to have a \_\_\_\_\_ with every licensee who associates with the broker.
  - a) Contracts should establish that the broker is required to supervise the associate licensee.
  - b) Contracts set forth the licensee's status as an independent contractor or employee.
2. Brokers should carry workers' compensation insurance on their salespeople.

**D. CalDRE disciplinary actions**

1. Upon the verified complaint, or upon the commissioner's own motion, the department may investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within California.
2. A formal hearing is conducted in accordance with procedures in the Administrative Procedures Act.
3. In the hearing, the commissioner is the complainant and brings the charges against the licensee.
4. The licensee may appear with or without counsel.
5. An administrative law judge hears the case, and issues a proposed decision.
6. The commissioner may accept or reject the proposed decision.
7. The licensee may petition for reconsideration, or appeal through the courts.

**E. Common violations**

1. \_\_\_\_\_—failure to disclose material facts
2. Undisclosed \_\_\_\_\_—failure to disclose that the licensee is acting as an agent for more than one party in the transaction
3. \_\_\_\_\_—mixing the funds of a principal with the broker's own money
4. Failing to include a specified \_\_\_\_\_ in exclusive listing agreements
5. Realizing a \_\_\_\_\_, for example, when the licensee has a higher offer from a buyer, and makes a lower offer herself, usually through a "dummy" purchaser; then the broker sells the property to the interested buyer at the higher price
6. \_\_\_\_\_—misstatements of fact in an application for a license

7. \_\_\_\_\_—including failing to disclose the existence of a special relationship (e.g., a relative or an entity in which a licensee has an ownership interest)
8. Not complying with handling and recordkeeping requirements involving \_\_\_\_\_
9. Making an addition to or modification of the terms of a document previously signed or initialed by a party to a transaction without the knowledge and consent of the party
10. Failing to \_\_\_\_\_ of any document to the party signing it at the time it is signed

## F. Recovery fund

1. The Consumer Recovery Fund Account was created to enable individuals who have been defrauded by a real estate licensee in a transaction requiring a license, and who satisfy specified requirements to recover at least some of their actual loss when the licensee has insufficient personal assets to pay for that loss.
2. Money to pay for the above amounts comes from real estate license fees.
3. The maximum amount that can be received by an injured party is up to \_\_\_\_\_, with a possible total amount of up to \_\_\_\_\_.
4. Requirements to qualify for payment include
  - a) a final judgment based on fraud, misrepresentation, or deceit;
  - b) a transaction in which the licensee was licensed at the time and was performing acts for which a real estate license was required;
  - c) diligent pursuit of any assets of all judgment debtors;
  - d) filing of an application with CalDRE no more than one year after the judgment became final;
  - e) the underlying judgment and debt must not have been discharged in bankruptcy;
  - f) CalDRE has \_\_\_\_\_ in which to make a decision whether and how much of the amount claimed should be paid;
  - g) if the application is denied the claimant has \_\_\_\_\_ to file a verified application in court;
  - h) the licensee's license is automatically suspended upon payment from the Recovery Account until the amount paid is repaid by the licensee, plus \_\_\_\_\_; and
  - i) the licensee has 30 days after receipt of the notice to petition for a judicial review of the suspension of his license.



**UNIT 3 GLOSSARY REVIEW**

- a. Recovery Fund
- b. Business, Consumer Services, and Housing Agency
- c. ethics
- d. For Sale signs
- e. governor
- f. reasonable supervision
- g. reviewed and approved
- h. specialized services
- i. termination
- j. written contract

1. \_\_\_\_ A broker is required to exercise \_\_\_\_\_ over the activities of salespersons.
2. \_\_\_\_ Under the NAR Code of Ethics, REALTORS® should not undertake to provide \_\_\_\_\_ outside of their field of competence.
3. \_\_\_\_ The CalDRE operates under the \_\_\_\_\_.
4. \_\_\_\_ The maximum amount that can be received under the \_\_\_\_\_ by an injured party is up to \$50,000 per transaction.
5. \_\_\_\_ A broker is required to notify CalDRE not more than 10 days following the \_\_\_\_\_ of employment of a licensee.
6. \_\_\_\_ Solicitation materials that do not require disclosure of salesperson's name and license number include \_\_\_\_\_ if the broker's name appears.
7. \_\_\_\_ An unlicensed assistant may prepare advertising so long as it is \_\_\_\_\_ by the licensee prior to its publication.
8. \_\_\_\_ CalDRE does not enforce \_\_\_\_\_ rules.
9. \_\_\_\_ The \_\_\_\_\_ appoints the real estate commissioner.
10. \_\_\_\_ A real estate broker is required to have a \_\_\_\_\_ with every licensee who associates with the broker.

## UNIT 3 REVIEW QUIZ

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1. A broker is required to exercise reasonable supervision over the activities of his salespersons, which includes
  - A. establishing rules and filing documents.
  - B. handling trust funds, advertising services, and familiarizing salespersons on discrimination laws.
  - C. all of these.
  - D. merely having a written contract that states the responsibilities of the parties.
2. The broker is required to maintain copies of which of the following documents?
  - A. Pictures of listings
  - B. Scripts of sales meetings
  - C. Electronic contracts
  - D. Appointment calendars
3. Solicitation materials intended to be a first point of contact with consumers include
  - A. business cards.
  - B. For Sale signs.
  - C. television ads.
  - D. newspaper advertising.
4. An unlicensed assistant can perform which of the following activities at an open house without having to have a real estate license?
  - A. Show or exhibit the property
  - B. Greet people
  - C. Discuss terms and conditions of a possible sale
  - D. Discuss the location of the property including describing the neighborhood or schools
5. The California attorney general acts as CalDRE's
  - A. prosecutor for real estate law violations.
  - B. national exam administrator.
  - C. legal counsel.
  - D. media spokesperson.
6. The Department of Real Estate
  - A. disciplines unlicensed individuals.
  - B. can discipline anyone.
  - C. can only discipline real estate licensees.
  - D. can find monetary damages against real estate licensees.
7. The written contract between a broker and associate licensee must stipulate that the
  - A. broker is not liable for the actions of the associate licensee.
  - B. associate licensee can operate independently of the broker.
  - C. broker and associate licensee are full and equal partners.
  - D. broker is required to supervise the associate licensee.
8. An unlicensed assistant can
  - A. order structural pest control inspections.
  - B. install signs.
  - C. attend open houses.
  - D. do any of these.
9. Which of the following is *NOT* a common violation of the real estate law?
  - A. Misrepresentations
  - B. Undisclosed dual agency
  - C. Disparaging the business practice of a competitor
  - D. Commingling
10. If the Department of Real Estate pays a consumer out of the Consumer Recovery Account, the real estate licensee's license will be suspended until the licensee
  - A. repays the amount in full.
  - B. repays the amount in full plus 10% interest.
  - C. repays the amount in full plus 10% interest and pays a fine.
  - D. apologizes.

# UNIT 4

## Property Management and Specialty Areas

### LEARNING OBJECTIVES

*When you have completed this unit, you will be able to*

- › **explain** the essential elements of the property management field and the role of the property manager;
- › **distinguish** the essential elements of lease interests;
- › **list** and **describe** various areas of specialization in the real estate profession; and
- › **discuss** the general tax ramifications involved in real estate.

#### I. PROPERTY MANAGEMENT

##### A. Responsibilities of the property manager

1. Obtain the \_\_\_\_\_ from the property for the owner.
2. Furnish the best value to the tenants for their rent, including reasonable safety measures.
3. Maintain proper records and make regular reports to the owner of the property.
4. Advertise vacancies.
5. Qualify prospective tenants.
6. Prepare and execute leases.
7. Pay the property's bills.
8. Recommend repairs and improvements.
9. Be aware of competitive market conditions.

10. Stay current on federal, state, and local laws.
11. Establish \_\_\_\_\_ for the property.
  - a) Rent schedules are the rents to be asked for in the lease.
  - b) \_\_\_\_\_ is scheduled rent less any inducements provided to the tenant.
  - c) The property manager sets up rent schedules by making a thorough analysis of the neighborhood.

### **B. Property management contract**

1. Written contract that sets forth the responsibilities of the parties
  - a) Management fee can be either a flat amount per month or a percentage of the gross rents collected.
  - b) Authority is given to the agent by the owner.
    - (1) Typically, property managers are a general agent of the owner with the authority to perform any act the owner themselves can perform (e.g., sign leases and other contracts on behalf of the owner).
  - c) Maintenance of accounting and trust fund records and ability to make regular reports to the owner.

### **C. Types of property managers**

1. Licensee/property manager
  - a) Manages a number of properties typically for various owners
  - b) May employ unlicensed employees to perform various functions, including interviewing prospective tenants, collecting rents, etc.
2. Resident manager
  - a) Lives on the property and may be employed by an owner or property manager
  - b) Does not require a license
  - c) Required to reside on the premises
  - d) Required to be paid a minimum hourly rate with a maximum amount of rent offset for wages in exchange for free or reduced rent is established by law
  - e) Required on residential properties with \_\_\_\_\_ or more units
3. Professional designations
  - a) Certified Property Manager (\_\_\_\_\_)
    - (1) Designation provided for education and experience by the Institute of Real Estate Management (IREM).

## II. LEASES

### A. Types of leasehold estates

1. An \_\_\_\_\_ is an estate in real property that continues for a definite, fixed period of time (year-to-year, month-to-month, or week-to-week) and may be for less or more than one year.
  - a) It terminates at the end of the term with \_\_\_\_\_.
  - b) Although referred to as a lease, the lease itself is the contract, not an estate in property.
2. A \_\_\_\_\_ is an estate in real property that lasts for a specified length of time and continues to be automatically renewed until notice, as required by law, is given to terminate.
  - a) Statutory notice requirements
    - (1) The term of the period but not less than 30 days' notice
    - (2) If occupancy is more than one year, 60 days' notice required
  - b) Typically referred to as "renting" property
3. An \_\_\_\_\_ is capable of being terminated at the will or unilateral decision of either party.
  - a) Not allowed by law in the state of California because notice must be given to terminate a leasehold estate; allowed in some states
  - b) Would be like allowing a relative to stay with a person for as long as the owner agreed
4. An \_\_\_\_\_ is one where a person has had the right to possession of the property but retains possession after the expiration of the term.
  - a) A form of trespassing
  - b) Examples
    - (1) A tenant under an estate for years who does not move out after a one year lease period
    - (2) A property owner who continues to occupy property after a foreclosure proceeding has been finalized
  - c) If a landlord accepts rent money from a tenant at sufferance he may establish a periodic tenancy.

### B. Types of lease contracts

1. Gross lease tenant pays \_\_\_\_\_ and landlord pays all expenses.
2. Net lease tenant pays \_\_\_\_\_ (e.g., utilities, property taxes, insurance, and maintenance costs).
3. \_\_\_\_\_ tenant pays rent based on a percentage of \_\_\_\_\_. This is typical in retail types of properties.
4. \_\_\_\_\_ is when rent increases at predetermined intervals and the amount is set in the lease terms.

**34** Unit 4 Property Management and Specialty Areas

5. \_\_\_\_\_ is when rent is adjusted based on an economic indicator (e.g., consumer price index).
6. \_\_\_\_\_ is when a tenant leases land and places improvements on the land, and when the lease terminates, the improvements are turned over to the owner of the land.

**III. SPECIALTY AREAS****A. Areas of specialization other than residential brokerage**

1. Commercial property
2. Industrial property
3. Business opportunities
4. Vacant land and lot sales
5. Farms
6. Time-shares
7. Loan brokerage and mortgage loan activities
8. Leasing agent

**IV. TAXATION****A. Property taxes**

1. Historically, governments have favored real estate taxation because it is the one form of taxation that \_\_\_\_\_ be evaded.
2. A change-in-ownership statement is required to be filed at the time of recording \_\_\_\_\_ if the transfer is not recorded.
3. Exemptions:
  - a) Homeowners exemption = \_\_\_\_\_
  - b) Homestead exemption = the greater of the following: the county-wide median sale price for a single-family home (not to exceed \$600,000) or \$300,000.
    - i) Amounts are adjusted annually for inflation based on the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations.
  - c) Qualified veterans exemption = \_\_\_\_\_
4. Proposition 13 provides that real estate will be taxed at a maximum rate of \_\_\_\_\_ of fair market value at the time of purchase and can only increase a maximum of \_\_\_\_\_ per year thereafter, plus voter approved indebtedness.
5. \_\_\_\_\_ against specific properties that benefit from a public improvement.

6. Amount of tax = assessed value  $\times$  tax rate
7. Property taxes have first right of priority over \_\_\_\_\_.
8. Real property taxes are an example of an \_\_\_\_\_ (according to value) tax.
9. Appeals of assessed value are first made to a \_\_\_\_\_.

#### **B. Documentary transfer tax**

1. Applies to transfers of real property located in the county in which the property is located.
2. Notice of payment is typically placed on the face of the deed.
3. Tax rate is \$0.55 for each \$500 of cash and new loans placed on the property (assumed loans are not subject to the tax).

#### **C. Street Improvement Act of 1911**

1. Utilized more than any other law for street improvements in California

#### **D. Mello-Roos**

1. Mello-Roos provides for a wider variety of facilities and services than other improvement bond acts and has no requirement that the improvements will specifically benefit individual properties.
2. The law requires that a seller of one-to-four dwelling units disclose a Mello-Roos assessment to a purchaser.
3. Failure to give notice of a Mello-Roos bond prior to signing the sales contract gives the buyer a three day right of rescission after receipt of the notice.

#### **E. Federal income tax**

1. Long-term capital gains tax rates
  - a) 15% for most real property
  - b) 20% for high-income individuals
  - c) 25% for depreciation recapture
2. Home mortgage interest deductibility on your main home or a second home
  - a) Home acquisition debt (to buy, build, or improve) your home, interest on up to \_\_\_\_\_ in loan amount is deductible.
  - b) The \$750,000 home interest loan maximum deduction applies to married couples filing jointly, single filers, or head of household filers. Married couples filing separately have a \$375,000 maximum loan amount.
3. 1031 tax deferred exchanges
  - a) Properties must be like-kind in nature. Personal use property does not qualify.
  - b) Cash or other assets ("boot") are recognized and fully taxable.

- c) Mortgage debt relief is treated as “boot” and is taxable.
- d) The basis of the old property is carried over as the basis for the new property, thus tax is deferred not avoided.

4. Installment sales

- a) If a taxpayer sells real property and receives one or more payments in a later year or years she recognizes the gain and spreads paying the tax over the years when the gain is received.

5. Sale of personal residence

- a) Exclusion from gain for sale of a principal residence where individuals have lived in the house for periods totaling at least two of the last five years.
  - (1) \$500,000 exclusion for married couples filing a joint return
  - (2) \$250,000 exclusion for singles or married couples filing separately



# UNIT 4 GLOSSARY REVIEW

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>a. ad valorem</li> <li>b. change-in-ownership</li> <li>c. depreciation recapture</li> <li>d. estate for years</li> <li>e. fixed rent</li> <li>f. highest return</li> <li>g. homeowner's exemption</li> <li>h. real property</li> <li>i. Street Improvement Act of 1911</li> <li>j. tax deductible</li> </ul> | <ul style="list-style-type: none"> <li>1. ____ A property manager is responsible to the owner to obtain the _____ from the property.</li> <li>2. ____ Under a gross lease, a tenant pays a _____ and the landlord pays all expenses.</li> <li>3. ____ A _____ statement is required to be filed at the time of recording or within 90 days if the transfer is not recorded.</li> <li>4. ____ The law that is used more than any other law for street improvements in California is the _____.</li> <li>5. ____ The maximum amount of interest that is _____ on home acquisition indebtedness is not to exceed \$750,000.</li> <li>6. ____ An _____ is for a definite fixed period of time and does not require notice to terminate.</li> <li>7. ____ A property tax _____ is for \$7,000.</li> <li>8. ____ The maximum long-term capital gains tax rate on _____ is 20%.</li> <li>9. ____ The long-term capital gains tax rate for _____ is 25%.</li> <li>10. ____ Real property taxes are an example of an _____ tax.</li> </ul> |
|---|---|

## UNIT 4 REVIEW QUIZ

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1. The type of property manager who lives on the property and does not require a real estate license is
  - A. a licensed property manager.
  - B. a CPM.
  - C. a resident manager.
  - D. an IREM.
2. Which type of leasehold estate requires at least a 30-day notice to terminate?
  - A. Estate for years
  - B. Tenancy at sufferance
  - C. Periodic tenancy
  - D. Estate for 30 days
3. Which of the following lease contracts has rent that is adjusted at predetermined intervals?
  - A. Graduated lease
  - B. Percentage lease
  - C. Index lease
  - D. Net lease
4. Which of the following would constitute areas of specialization in real estate?
  - A. Commercial or industrial sales of real property
  - B. Vacant land and lot sales
  - C. Time-shares
  - D. All of these
5. The tax rate for documentary transfer tax is
  - A. \$1 per \$1,000 of cash or assumed loans.
  - B. 1% of the selling price.
  - C. 0.55 per \$500 of cash or new loans.
  - D. 1% of the assessed value.
6. In a 1031 tax-deferred exchange which of the following is taxable?
  - A. Only cash received is taxable
  - B. Only mortgage debt relief is taxable
  - C. Boot
  - D. The amount of gain is taxable
7. A designation awarded to property managers by the Institute of Real Estate Management (IREM) for education and experience is
  - A. CRM.
  - B. GRI.
  - C. RPM.
  - D. CPM.
8. A type of estate held by a tenant who stays in a property after an estate for years has terminated without the consent of the landlord is called an
  - A. estate in trespass.
  - B. estate at will.
  - C. illegal estate.
  - D. estate at sufferance.
9. A percentage lease would most commonly be used on
  - A. an industrial property.
  - B. single family rental.
  - C. a retail store.
  - D. an office building.
10. Proposition 13 provides that real estate is initially taxed on the fair market value at the time of purchase of a maximum rate of
  - A. 1%.
  - B. 2%.
  - C. 5%.
  - D. 10%.

# ANSWER KEY

## Unit 1

### Lecture outline fill-ins

#### Page 1

never  
should not  
one  
Commingling  
\$200

#### Page 2

segregating  
Conversion  
buyer  
monthly  
aggregate trust fund liability  
Interpleader

#### Page 3

10 days  
must retain for three years  
electronic image  
one- to four  
three days  
Foreclosure

#### Page 4

never  
Earthquake fault zone  
residential properties built before 1978  
one mile

#### Page 5

reasonably competent and diligent visual  
Disclose  
Elect  
Confirm  
State Structural Pest Control Board  
buyer  
one mile

## Unit 1 Glossary Review

### Page 6

1. Interpleader is a court proceeding by a holder of deposit money to determine who is legally entitled to the money.
2. Advance fee agreements are required to be submitted to CalDRE no less than 10 days before being used.
3. Sellers are exempt from providing transfer disclosure statements to buyers on sales including foreclosures.
4. Sellers of residential properties built before 1978 are required to deliver an EPA booklet, *Protect Your Family from Lead in Your Home*, to prospective buyers and lessees.
5. Pest control reports are filed with the California Structural Pest Control Board.
6. Conversion is the unlawful appropriation of another's property for the broker's personal use.
7. The illegal mixing of personal funds with money held in trust on behalf of a client is called commingling.
8. Trust fund records must be reconciled monthly.
9. A transfer disclosure statement must be delivered to a buyer on a sale of residential real property with up to four dwelling units.
10. Earthquake fault zones are covered in the natural hazards disclosure statement.

## Unit 1 Review Quiz

### Page 7

1. **C** Trust funds never belong to the broker. Either they are the property of the buyer or the property of the seller.

**40** Answer Key

2. **C** Trust fund records are required to be reconciled with bank statements monthly.
3. **A** The broker accepts the deposit as an agent for the buyer and is responsible to the buyer for the deposit.
4. **B** Advance fees are fees paid to real estate professionals in advance of any services rendered and are a form of trust funds.
5. **A** Licensees are required to keep copies of documents on transactions for which a license is required for three years from the close of escrow or if there is no close of escrow from the date of listing of the property.
6. **C** Either manually produced or computerized accounting records are acceptable to track trust funds.
7. **D** The buyer has the right to cancel within three days from delivery of a Transfer Disclosure Statement that is received after delivery.
8. **D** The seller typically pays for installation of smoke detectors and water heater bracing where required by law.
9. **C** On the sale of dwelling units in condominiums, planned developments, or cooperative property, the visual inspection required of agents only includes the unit involved and not the common areas.
10. **B** A licensee has a duty to deliver copies of any structural pest control reports she has in her possession.

**Unit 2****Lecture outline fill-ins****Page 9***Jones v. Mayer*

National origin

**Page 10**

(HUD)

pregnant persons

AIDS

seminary dormitory

public accommodations

accessible

Rumford Act  
business establishments

**Page 11**

“redlining”

seller who discriminates

Panic selling

Steering

increased to

**Page 12**

California, New York, Texas, and Florida

**Page 13**

cultural beliefs and values

**Page 14**

Loan Estimate

Closing Disclosure

Bait and switch advertising

Agricultural

48 hours

**Page 15**

do not disclose

apartment complex with chapel

descriptions of properties

**Page 16**

from unsolicited emails

internal

three months

mobile

**Page 17**

e-Pro®

virtual tour

**Unit 2 Glossary Review****Page 18**

1. The fine for violating do-not-call rules can be up to \$40,000.

2. The National Do Not Call Registry exists to protect consumers from unwanted commercial telephone solicitations.
3. Prohibited discrimination against handicapped persons includes those afflicted with AIDS.
4. The illegal practice of real estate licensees directing members of a protected class towards or away from certain neighborhoods is called steering.
5. The CAN-SPAM Act protects consumers from unsolicited email messages.
6. The percentage of foreign buyers purchasing property in the United States has been increasing.
7. The Loan Estimate required under TRID must be delivered or placed in the mail no later than the third business day after receipt of the loan application.
8. Blind ads are advertisements that do not disclose that the person or entity placing the ad is a real estate licensee.
9. A professional certification that indicates that a real estate professional has advanced training in technology is e-Pro®.
10. An exception, which allows a person to call someone on the National Do Not Call Registry, is when an inquiry has been made within three months.
4. **D** *Jones v. Mayer* is the U.S. Supreme Court case upholding the 1866 Civil Rights Act which involved the 14th Amendment.
5. **C** The 1968 Civil Rights Act is enforced by the Department of Housing and Urban Development (HUD).
6. **D** While the other activities are fun, real estate professionals would not be able to be productive in today's real estate world if they did not have access to a multiple listing service through a computer.
7. **C** Consumer relationship management (CRM) software fulfills many functions that help real estate professionals be more effective and efficient, including tracking prospects to convert them to clients and having a "tickler file" system that results in them automatically keeping in touch with clients on a regular basis.
8. **D** The Closing Disclosure must be provided to the consumer at least three business days prior to the consummation of the transaction. Under specified circumstances if a change must be made to the disclosure form an additional three day waiting period may be required.
9. **A** Each company must keep its own do-not-call list of consumers who request not to be called again.
10. **B** A licensee cannot advertise or represent that a used mobile home is new. A licensee cannot represent that a mobile home can be transported on California highways if it does not have the appropriate equipment to do so.

## Unit 2 Review Quiz

### Page 19

1. **D** The exception for real estate professionals who have had prior contact with a consumer is only good for 30 days. The 18-month exception is only valid if the real estate professional had prior contact with the consumer. Personal calls are exempt because they are not solicitations.
2. **A** The CAN-SPAM Act of 2003 requires bulk email senders to provide recipients a way to opt out of future emails.
3. **D** The CAN-SPAM Act of 2003 allows bulk email solicitations. Including recipients in the cc list should not be done because it would share their email addresses and it may also get the email marked as spam. Recipients do not have to opt in, which is why lists can be bought.

## Unit 3

### Lecture outline fill-ins

#### Page 21

reasonable supervision

#### Page 22

appointed  
ten days  
Emails  
three years

#### Page 23

prominently and conspicuously  
Business cards

**Page 24**

Cold Calling  
Open house

**Page 25**

Comparative Market Analysis  
Access to Property  
Information about the property  
Advertising  
reviewed and approved  
Documents  
does not

**Page 26**

discrimination  
specialized services  
unauthorized practice of law  
governor  
adopt regulations  
disciplines  
cannot  
hearing  
legal advisor  
prosecutor  
substantial misrepresentation  
not

**Page 27**

written contract  
Misrepresentation  
dual agency  
Commingle  
definite termination date  
secret profit  
Obtaining a license by fraud

**Page 28**

Failing to disclose ownership interest  
trust funds  
deliver a copy  
\$50,000 per transaction  
\$250,000 per licensee  
90 days  
six months  
10% interest

**Unit 3 Glossary Review****Page 29**

1. A broker is required to exercise reasonable supervision over the activities of salespersons.
2. Under the NAR Code of Ethics, REALTORS® should not undertake to provide specialized services outside of their field of competence.
3. The CalDRE operates under the Business, Consumer Services, and Housing Agency.
4. The maximum amount that can be received under the Recovery Fund by an injured party is up to \$50,000 per transaction.
5. A broker is required to notify CalDRE not more than 10 days following the termination of employment of a licensee.
6. Solicitation materials that do not require disclosure of licensed status include For Sale signs.
7. An unlicensed assistant may prepare advertising so long as it is reviewed and approved by the licensee prior to its publication.
8. CalDRE does not enforce ethics rules.
9. The governor appoints the real estate commissioner.
10. A real estate broker is required to have a written contract with every licensee who associates with the broker.

**Unit 3 Review Quiz****Page 30**

1. **C** Reasonable supervision includes establishing rules, maintaining records, handling trust funds, advertising services, and familiarizing salespersons with laws dealing with discrimination.
2. **C** Brokers are required to keep digital copies of electronic documents that relate to real estate transactions, but not texts and tweets.

3. **A** First point of contact solicitation materials include business cards, stationery, websites, and flyers.
4. **B** An unlicensed assistant can greet the public at an open house without having to have a real estate license.
5. **C** The California attorney general acts as CalDRE's legal counsel. The local district attorney acts as the prosecutor for real estate law violations.
6. **C** The CalDRE only has the ability to discipline real estate licensees. All other actions must go through the courts.
7. **D** The written contract between the broker and salesperson indicates that the broker is responsible for supervising the activities of the salesperson.
8. **D** Unlicensed assistants can perform many activities for real estate licensees without possessing a license, such as order inspections, install For Sale signs, attend open houses and greet people, but they cannot perform acts for which a license is required (e.g., offer property for sale, negotiate sales agreements).
9. **C** Disparaging the business practice of a competitor is a violation of NAR's Code of Ethics, but it does not violate any provision of the real estate law. The other choices are violations of the law.
10. **B** The license is suspended until the amount is repaid in full plus 10% interest. There is no fine and apologizing does not end the suspension.

## Unit 4

### Lecture outline fill-ins

#### Page 31

highest return

#### Page 32

rent schedules

Effective rent

16

CPM

#### Page 33

estate for years

no notice required

periodic tenancy

estate at will

estate at sufferance

fixed rent

base rent plus some or all expenses

Percentage lease

gross income

## Page 34

Graduated lease

Index lease

Ground lease

cannot

or within 90 days

\$7,000

\$4,000

1%

2%

Special assessments

## Page 35

all other liens

ad valorem

board of appeals

\$750,000

## Unit 4 Glossary Review

### Page 35

1. A property manager is responsible to the owner to obtain the highest return from the property.
2. Under a gross lease, a tenant pays a fixed rent and the landlord pays all expenses.
3. A change-in-ownership statement is required to be filed at the time of recording or within 90 days if the transfer is not recorded.
4. The law that is used more than any other law for street improvements in California is the Street Improvement Act of 1911.
5. The maximum amount of interest that is tax deductible on home acquisition indebtedness is not to exceed \$750,000.
6. An estate for years is for a definite fixed period of time and does not require notice to terminate.

**44** Answer Key

7. A property tax homeowner's exemption is for \$7,000.
8. The maximum long-term capital gains tax rate on real property is 20%.
9. The long-term capital gains tax rate for depreciation recapture is 25%.
10. Real property taxes are an example of an ad valorem tax.

**Unit 4 Review Quiz****Page 37**

1. **C** Resident managers are a type of property manager that live on the property and are not required to have a real estate license. They are required on properties involving 16 or more units.
2. **C** A periodic tenancy requires a minimum of 30 days' notice to terminate.
3. **A** A graduated lease has rent based on predetermined intervals. An index lease has rent that is adjusted based on an economic indicator such as the consumer price index.
4. **D** All of the areas of activity are specialized areas of real estate.
5. **C** The documentary transfer tax rate is .55 per \$500 of cash or new loans.
6. **C** In a tax deferred exchange, cash or other assets referred to as "boot" is taxable.
7. **D** The Certified Property Management (CPM) designation is awarded by the Institute of Real Estate Management (IREM).
8. **D** The estate which exists when a tenant under an estate for years remains in the property without the landlord's consent is called an estate at sufferance.
9. **C** A percentage lease would be most commonly used on a retail type of property, and based on the store's gross sales or income.
10. **A** The maximum rate initially is 1% of the fair market value at the time of the purchase.